

SECOND REGULAR SESSION

HOUSE BILL NO. 1243

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE OSTMANN.

Pre-filed December 13, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

24841.011

AN ACT

To repeal section 452.402, RSMo, and to enact in lieu thereof one new section relating to grandparent visitation.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 452.402, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 452.402, to read as follows:

452.402. 1. The court may grant reasonable visitation rights to the grandparents of the child and issue any necessary orders to enforce the decree. The court may grant grandparent visitation when:

(1) The parents of the child have filed for a dissolution of their marriage. A grandparent shall have the right to intervene in any dissolution action solely on the issue of visitation rights. Grandparents shall also have the right to file a motion to modify the original decree of dissolution to seek visitation rights when such rights have been denied to them;

(2) One parent of the child is deceased and the surviving parent denies reasonable visitation rights **to a parent of the deceased parent of the child;**

(3) **The child has resided in the grandparent's home for at least six months within the twenty-four month period immediately preceding the filing of the petition;**

(4) A grandparent is unreasonably denied visitation with the child for a period exceeding ninety days. **However, if the natural parents are legally married to each other and are living together with the child, a grandparent may not file for visitation pursuant to this subdivision; or**

[(4)] (5) The child is adopted by a stepparent, another grandparent or other blood

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 relative.

18 2. The court shall determine if the visitation by the grandparent would be in the child's
19 best interest or if it would endanger the child's physical health or impair the child's emotional
20 development. Visitation may only be ordered when the court finds such visitation to be in the
21 best interests of the child. **However, when the parents of the child are legally married to**
22 **each other and are living together with the child, it shall be a rebuttable presumption that**
23 **such parents know what is in the best interest of the child.** The court may order reasonable
24 conditions or restrictions on grandparent visitation.

25 3. If the court finds it to be in the best interests of the child, the court may appoint a
26 guardian ad litem for the child. The guardian ad litem shall be an attorney licensed to practice
27 law in Missouri. The guardian ad litem may, for the purpose of determining the question of
28 grandparent visitation rights, participate in the proceedings as if such guardian ad litem were a
29 party. The court shall enter judgment allowing a reasonable fee to the guardian ad litem.

30 4. A home study, as described by section 452.390, may be ordered by the court to assist
31 in determining the best interests of the child.

32 5. The court may, in its discretion, consult with the child regarding the child's wishes in
33 determining the best interest of the child.

34 6. The right of a grandparent to seek or maintain visitation rights pursuant to this section
35 may terminate upon the adoption of the child.

36 7. The court may award reasonable attorneys fees and expenses to the prevailing party.